

REMARKS

Reconsideration of the application is requested.

Claims 2-12 and 18-30 are now in the application. Claims 26-30 are subject to examination and claims 2-12 and 18-25 have been withdrawn from examination. Claims 26-30 have been added. Claims 1 and 13-17 have been canceled to facilitate prosecution of the instant application.

Under the heading "Election/Restrictions" on page 2 of the above-identified Office Action, the Examiner required restriction to one of the inventions defined in groups i-iv and stated that previous counsel made a provisional election without traverse to prosecute the claims of group i which includes claims 1 and 13-17.

Neither applicant nor present counsel are in possession of any information relating to the provisional election that was made by the previous counsel. Based on the statement of the Examiner, applicant affirms the election of the claims of group i (claims 1 and 13-17), without traverse.

Under the heading "Claim Rejections – 35 USC § 112" on page 4 of the above-identified Office Action, claims 1, 13, 14, and 17 have been rejected as having insufficient antecedent basis under 35 U.S.C. § 112, second paragraph, and claims 1, 14, and 16 have been rejected as being indefinite under 35 U.S.C. § 112, second paragraph.

Claims 1 and 13-17 have been canceled to facilitate prosecution of the instant application, and new claims 26-30 have been written to more clearly define the invention.

Support for claim 26 can be found by referring to claim 1 as originally presented. Additional support for claim 26 and for claims 27-29 can be found by referring to paragraphs 0123 – 0124, 0127 – 0129, and 0132 of the specification.

Applicant points out that canceled claim 1 includes the limitation, “routing calls to the telephonic number via telephonic routing system to a set of first locations, based on a first algorithm generated by a computational system operatively connected and in communication with said telephonic number routing”. The copied limitation of claim 1 is used as partial support for the following limitation of claim 26:

based on information other than the telephonic number, selecting a particular one of a plurality of vendors and routing the telephone call to the particular one of the plurality of vendors.

In addition to the copied limitation of claim 1, applicant specifically brings the attention of the Examiner to:

the disclosure in paragraph 0123 of the specification, which teaches that the call made in response to the advertisement with the identification

code can be routed via the programmed rules that discussed below in the specification;

the disclosure in paragraph 0127 of the specification, which teaches that the call will be routed to a vendor that is selected based on a bidding factor; and

the disclosure in paragraphs 0128-0129 of the specification, which teaches the specifics of the bidding factor.

Applicant believes that the newly formulated claims 27 - 29 are not in violation of the restriction/election. Applicant notes that added dependent claims 27 - 29, which relate to the routing of the call are not distinct subcombinations of claim 26. In order for claims 26-29 to fall under the combination/ subcombination language of MPEP 806.05 (c), claim 26 would define the subcombination "A" and claims 27 - 29 would define the combinations "AB", "AC", and "AD". Each so-called combination would require the particulars of the subcombination "A" as claimed for patentability and therefore MPEP 806.05(d) (A) would not be met and a restriction requirement based on the combination/ subcombination theory is not applicable to these newly formulated claims.

Support for claim 29 can be found by referring to paragraph 0123 of the specification. Support for claim 30 can be found by referring to paragraph 0124 and 0132 of the specification.

Under the heading "Claim Rejections – 35 USC § 102" on page 4 of the above-identified Office Action, claims 1, 14, 15 and 17 have been rejected as being fully anticipated by U.S. Patent No. 5,937,390 to Hyodo under 35 U.S.C. § 102.

New claim 26 defines a method for tracking an effectiveness of an advertisement for use with a telephonic sales market, the method including:

placing an advertisement for a product or service on an advertisement medium, the advertisement including a telephonic number for contacting a vendor in order to obtain the product or service and the advertisement including an identification code for indicating an effectiveness of the advertisement;

enabling a potential customer to place a telephone call by entering the telephonic number into a telecommunications network and enabling the potential customer to cause the identification code to be entered into the telecommunications network;

based on information other than the telephonic number, selecting a particular one of a plurality of vendors and routing the telephone call to the particular one of the plurality of vendors; and

obtaining the identification code from the telecommunications network and using the identification code to update a database, which is

accessible by the particular one of the plurality of vendors, in order to obtain performance information indicating the effectiveness of the advertisement.

Hyodo does not teach or suggest placing an advertisement including both a telephonic number for contacting a vendor in order to obtain the product or service and an identification code for indicating an effectiveness of the advertisement. Hyodo teaches an advertisement that does not include an identification code for indicating an effectiveness of the advertisement. There is only a telephone number and a FAX number in addition to the standard advertising information (column 3, lines 27-30).

Hyodo does not teach or suggest enabling a customer to enter both a telephonic number and identification code for indicating an effectiveness of the advertisement into a telecommunications network. The only information that is entered into a telecommunications network is the toll-free telephone number that is used to contact the store (column 4, lines 20-21).

Hyodo does not teach or suggest that information other than the telephonic number will be used to select a particular one of a plurality of vendors to which the telephone call will be routed. The telephone call placed using the toll free number in Hyodo is always routed to the same store (column 4, lines 27-29).

Hyodo does not teach or suggest updating a database using the identification code. Hyodo teaches using the number of times that the toll-free telephone

number was called in order to update a database (column 3, lines 30-37). This is different from updating a database using the identification code that was provided in the advertisement along with the telephonic number. The number of times that the toll free number is dialed does not have a direct correlation with the advertisement, but could also be partially due to other advertisements and personal uses of the toll free number (see, for example, column 4, lines 43-49). In contrast, with the invention as defined by claim 26, the number of times that the separate identification code is entered into the network provides a direct correlation to the effectiveness of the advertisement.

Claims 27-29 specify particular information used to select a vendor. As already discussed, Hyodo does not teach selecting a vendor. The toll free telephone number is always routed to the same store.

Claim 30 specifies that the potential customer enters the identification code using the keypad of a telephone. Hyodo only teaches that the customer will enter the toll free telephone number.

Under the heading "Claim Rejections – 35 USC § 103" on page 6 of the above-identified Office Action, claim 13 has been rejected as being obvious over U.S. Patent No. 5,937,390 to Hyodo in view of U.S. Patent No. 6,470,079 to Benson under 35 U.S.C. § 103.

Claim 13 has been canceled.

Under the heading "Claim Rejections – 35 USC § 103" on page 6 of the above-identified Office Action, claim 16 has been rejected as being obvious over U.S. Patent No. 5,937,390 to Hyodo in view of International Publication WO 98/26543 A1 under 35 U.S.C. § 103.

Claim 16 has been canceled.

It is accordingly believed to be clear that none of the references, whether taken alone or in any combination, either show or suggest the features of claim 26. Claim 26 is, therefore, believed to be patentable over the art. The dependent claims are believed to be patentable as well because they all are ultimately dependent on claim 26.

In view of the foregoing, reconsideration and allowance of claims 26-30 are solicited.

In the event the Examiner should still find any of the claims to be unpatentable, counsel would appreciate receiving a telephone call so that, if possible, patentable language can be worked out.

Petition for extension is herewith made. The extension fee for response within a period of three months pursuant to Section 1.136(a) in the amount of \$525.00 in accordance with Section 1.17 is enclosed herewith.

Please charge any other fees that might be due with respect to Sections 1.16 and 1.17 to the Deposit Account of Lerner Greenberg Sterner LLP, No. 12-1099.

Respectfully submitted,

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MPW:cgm

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